



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	Board of Housing and Community Development
VAC Chapter Number:	13 VAC 5-31-10 et seq.
Regulation Title:	Virginia Amusement Device Regulations
Action Title:	Final
Date:	5/23/03

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

The substantive amendments to this regulation proposed by the Board are as follows:

To clarify that the provisions of the Uniform Statewide Building Code, including but not limited to all administrative procedures, shall apply in the administration and enforcement of this chapter and to amusement devices to the extent such provisions are not superseded by the provisions of this regulation and § 36-98.3 of the Code of Virginia.

To update the incorporated by reference standards to the latest editions of the American National Standards Institute (ANSI) for the regulation of passenger tramways and the American Society for Testing and Materials (ASTM) for the regulation of amusement devices.

To regulate “go-karts” by the adoption of the new referenced standards.

To allow appeals to the State Building Code Technical Review Board following a final determination by the local board of building code appeals.

To specify that the local building department's official or representative shall enforce the provisions of the Virginia Amusement Device Regulations (VADR), including any interpretation of the VADR by the State Building Code Technical Review Board.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

The Board of Housing and Community Development adopted provisions for the Virginia Amusement Device Regulations as a final regulation on April 7, 2003.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.

There is no federal source of legal authority to promulgate the regulation.

The statutory authority for the Board of Housing and Community Development to promulgate the regulations is found in the General Assembly's mandate to the Board in § 36-98.3 of the Code of Virginia, which gives the Board the power and duty to promulgate regulations pertaining to the construction, maintenance, operation and inspection of amusement devices.

§ 36-98.3. Amusement devices.

A. The Board shall have the power and duty to promulgate regulations pertaining to the construction, maintenance, operation and inspection of amusement devices. Amusement device means (i) a device or structure open to the public by which persons are conveyed or moved in an unusual manner for diversion and (ii) passenger tramways. A "passenger tramway" means a device used to transport passengers uphill, and suspended in the air by the use of steel cables, chains or belts, or by ropes, and usually supported by trestles or towers with one or more spans. Regulations promulgated hereunder shall include provisions for the following:

1. The issuance of certificates of inspection prior to the operation of an amusement device;

2. The demonstration of financial responsibility of the owner or operator of the amusement device prior to the operation of an amusement device;
 3. Maintenance inspections of existing amusement devices;
 4. Reporting of accidents resulting in serious injury or death;
 5. Immediate investigative inspections following accidents involving an amusement device that result in serious injury or death;
 6. Certification of amusement device inspectors;
 7. Qualifications of amusement device operators;
 8. Notification by amusement device owners or operators of an intent to operate at a location within the Commonwealth; and
 9. A timely reconsideration of the decision of the local building department when an amusement device owner or operator is aggrieved by such a decision.
- B. In promulgating regulations, the Board shall have due regard for generally accepted standards as recommended by nationally recognized organizations. Where appropriate, the Board shall establish separate standards for mobile amusement devices and for amusement devices permanently affixed to a site.
- C. To assist the Board in the administration of this section, the Board shall appoint an Amusement Device Technical Advisory Committee, which shall be composed of five members who, by virtue of their education, training or employment, have demonstrated adequate knowledge of amusement devices or the amusement industry. The Board shall determine the terms of the Amusement Device Technical Advisory Committee members. The Amusement Device Technical Advisory Committee shall recommend standards for the construction, maintenance, operation and inspection of amusement devices, including the qualifications of amusement device operators and the certification of inspectors, and otherwise perform advisory functions as the Board may require.
- D. Inspections required by this section shall be performed by persons certified by the Board pursuant to subdivision 7 of § 36-137 as competent to inspect amusement devices. The provisions of § 36-105 notwithstanding, the local governing body shall enforce the regulations promulgated by the Board for existing amusement devices. Nothing in this section shall be construed to prohibit the local governing body from authorizing inspections to be performed by persons who are not employees of the local governing body, provided those inspectors are certified by the Board as provided herein. The Board is authorized to conduct or cause to be conducted any inspection required by this section, provided that the person performing the inspection on behalf of the Board is certified by the Board as provided herein.
- E. To the extent they are not superseded by the provisions of this section and the regulations promulgated hereunder, the provisions of this chapter and the Uniform Statewide Building Code shall apply to amusement devices.

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+36-98.3>

The Office of the Attorney General has certified that the Board of Housing and Community Development has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The rationale for the substantive changes to this regulation being proposed by the Board is as follows:

To clarify that the provisions of the Uniform Statewide Building Code, including but not limited to all administrative procedures, shall apply in the administration and enforcement of this chapter and to amusement devices to the extent such provisions are not superseded by the provisions of this regulation and § 36-98.3 of the Code of Virginia.

To update the incorporated by reference standards to the latest editions of the American National Standards Institute (ANSI) for the regulation of passenger tramways and the American Society for Testing and Materials (ASTM) for the regulation of amusement devices.

To regulate “go-karts” by the adoption of the new referenced standards.

To allow appeals to the State Building Code Technical Review Board following a final determination by the local board of building code appeals.

To specify that the local building department’s official or representative shall enforce the provisions of the VADR, including any interpretation of the VADR by the State Building Code Technical Review Board.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action’s detail.

The key provisions of the regulation that changes the current status of law, are as follows:

To clarify that the provisions of the Uniform Statewide Building Code, including but not limited to all administrative procedures, shall apply in the administration and enforcement of this chapter and to amusement devices to the extent such provisions are not superseded by the provisions of this regulation and § 36-98.3 of the Code of Virginia.

To update the incorporated by reference standards to the latest editions of the American National Standards Institute (ANSI) for the regulation of passenger tramways and the American Society for Testing and Materials (ASTM) for the regulation of amusement devices.

To regulate “go-karts” by the adoption of the new referenced standards.

To allow appeals to the State Building Code Technical Review Board following a final determination by the local board of building code appeals.

To specify that the local building department’s official or representative shall enforce the provisions of the VADR, including any interpretation of the VADR by the State Building Code Technical Review Board.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term “issues” means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The primary advantage for the public of implementing the amended regulation is increased public safety on and around amusement devices and rides. The amendments also clarify and update regulatory provisions. The agency sees no disadvantages for the public or the Commonwealth.

Statement of Changes Made Since the Proposed Stage

Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.

The County of Hanover requested the deletion of the proposed requirement in 13 VAC-5-31-100 limiting the permit fee charged by the local building department to operate an amusement device to “a maximum of \$150 for one site” when the inspection for obtaining a certificate of inspection for that device is conducted by a private inspector. This request was approved by the Board.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

The County of Hanover requested the deletions of the proposed requirement in 13 VAC-5-31-100 limiting the permit fee charged by the local building department to operate an amusement device to “a maximum of \$150 for one site” when the inspection for obtaining a certificate of inspection for that device is conducted by a private inspector. This request was approved by the Board.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

All of the substantive changes to the IBR being proposed by the Board are the following:

13 VAC 5-31-10 is amended to clarify that the provisions of the Uniform Statewide Building Code, including but not limited to all administrative procedures, shall apply in the administration and enforcement of this chapter and to amusement devices to the extent such provisions are not superseded by the provisions of this regulation and § 36-98-3 of the Code of Virginia and to update the incorporated by reference standards to the latest editions of the American National Standards Institute (ANSI) for the regulation of passenger tramways and the American Society for Testing and materials (ASTM) for the regulation of amusement devices. This section is also amended to specify that local building department personnel enforcing the VADR and private inspectors are required to attend training as designated and required by DHCD.

13 VAC 5-31-40 is amended is update ASTM references.

13 VAC 5-31-50 is amended is clarify provisions related to appeals.

13 VAC 5-31-60 is amended to allow appeals to the State Building Code Technical Review Board following a determination by the local board of building code appeals.

13 VAC 5-31-90 is amended to provide that in the event of an accident, involving serious injury or death, the owner or operator shall contact the responsible local building official not later than the next work day.

13 VAC 5-31-110 is amended to specify that the local building department's official or representative shall enforce the provisions of the VADR, including any interpretation of the VADR by the State Building Code Technical Review Board.

13 VA 5-31-180 is amended to provide that where the physical structure of the ride is such that it is not capable of accommodating an attendant at both the loading and unloading area and the entire ride is visible and under the supervision of a single attendant, attendants at both the loading and unloading areas shall not be required.

13 VAC 5-31-190 is added to provide that concession go-karts shall be operated, maintained and inspected in accordance with ASTM F2007-00.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

N/A